NASSIM v. JACOB

[A. C. J. (Jobling J.) August 26, 1948]

[Singapore — District Court Appeal No. 13 of 1948]

Landlord and Tenant — Control of Rent Ordinance, 1947, s. 14(1)(m) — Alternative accommodation — Suitability for need of tenant.

In this case the appellant appealed against the order of the District Court which gave judgment for the landlord who claimed possession of certain premises under s. 14(1)(m) of the Control of Rent Ordinance. It appeared that the tenant had two houses to occupy and the application by the landlord was for possession of one of these houses.

Held: on the facts of the case, suitable alternative accommodation was available to the tenant and it was reasonable to make the order against the tenant.

DISTRICT COURT APPEAL.

F. R. N. H. Massey for the appellant.

K. A. Seth for the respondent.

Jobling J. : — This is a claim for possession of certain premises and the claim is formulated under the Control of Rent Ordinance section 14(1) (m) which reads as follows :—

14. — (1) No order or judgment for the recovery of possession of any premises comprised in a tenancy shall be made or given except in the following cases, namely, —

(m) in any other case where the Court considers it reasonable that such an order or judgment be made or given and is satisfied that suitable alternative accommodation is available for the tenant or will be avalaible for him when the order or judgment takes effect.

The learned District Judge found that suitable alternative accommodation was available to the tenant and secondly found that it was reasonable that the order of possession should be made and he did so accordingly.

It is necessary to examine these two points to see if that decision can be upheld.

The first point is whether the alternative accommodation was suitable. Mr. Massey has urged that the accommodation is not suitable because it has not the same security of tenure. It is true that the alternative accommodation is on Crown land and has not the protection of the Control of Rent Ordinance and tenure is subject to a licence. Security of tenure given by the Rent Ordinance is not, of course, complete. The provisions of the ordinance, particularly in section 14 show that possession can be recovered in certain circumstances and in the case of this tenancy there would seem to be grounds for a claim to recover within a year. It is a very difficult thing to assess the value of the security of a tenure in the case of the two premises in question but I think in this matter one can draw inferences from the statement of the tenant himself and his actions. He moved to the alternative premises at Tanjong Rhu and spent $10,000 there knowing that they were subject to a licence and knowing that it was possible that such licence might be cancelled. He gave evidence that he considers the premises suitable. He had no doubt taken into consideration security of tenure or the absence of security when he did so. Having regard to evidence of the land officer I do not think the difference in the security of tenure of the two premises is so great that I can say that the alternative accommodation is not suitable. In my view it is suitable. That is as far as the question of security of tenure is concerned.

As to whether it is suitable for the needs of the tenant himself, I think the word "tenant" in (m) must be read widely and not restricted to the individual. It depends in each case on the circumstances, but in this case it does not cause any difficulty because the tenant and his family and his mother lived at 106, Sophia Road. They have also lived at Tanjong Rhu and both houses appear to be equally suitable to the tenant's needs and those of the persons who normally lived with him. I therefore agree with the learned District Judge's finding that the accommodation was suitable.

On the question of whether it was reasonable to make such an order once the Court found that suitable alternative accommodation was available, the circumstances of the plaintiff make it reasonable and the conduct of the tenant in trying to occupy two houses makes it reasonable. The evidence and the correspondence show that the mother only went into temporary occupation of the 106 Sophia Road premises once the tenant knew the grounds of the application and I agree with the view that it was only a token occupation to attempt to answer a claim under paragraph 14(1) (m) of the ordinance.

I find therefore that the learned District Judge's finding on both facts was correct and the appeal must be dismissed with costs.

Appeal dismissed.